

1 : CV 00 - 0640

UNITED STATES DISTRICT COURT

Middle DISTRICT OF Pennsylvania

Scranton, Pennsylvania

RECEIVED  
SCRANTON

MAR 22 2000

PER

DEPUTY CLERK

Glen William Koski 03235-082  
(Full name and inmate number)

Case Number

v.

United States

(Name of respondent)

Clerk to supply

PETITION FOR WRIT OF  
HABEAS CORPUS BY PERSON  
IN FEDERAL CUSTODY  
PERSUANT TO 28 USC 2241

#### INSTRUCTIONS

To be considered by the District Court, this petition must be typed or neatly handwritten in English, and attested to by the petitioner. Answers to questions must be concise. If the space provided is too small to answer a particular question, the reverse side of the page or an additional page may be used.

Every petition for habeas corpus must be attested to. A false statement of material fact in the petition may be the basis for a prosecution and conviction for perjury. Petitioners should take care that their answers are true and correct.

If the petition is taken "in forma pauperis", it shall include an affidavit setting forth the information that will establish whether the petitioner will be unable to pay the fees and costs of the habeas corpus proceedings.

When the petition is completed, the original and two copies shall be mailed to the clerk of the District Court.

FILED  
SCRANTON

APR 10 2000

PER

DEPUTY CLERK

1. Place of detention F.P.C. Allenwood

2. Name and location of the court which imposed the sentence

U.S. District Court for The District of Vermont / Burlington, Vermont

3. The indictment number or numbers upon which and the offense or offenses for which the sentence was imposed:

(a) Criminal No. 2:95-CR-72-11

(b) \_\_\_\_\_

(c) \_\_\_\_\_

4. The date upon which sentence was imposed and the terms of the sentence.

Sentenced Jan. 15<sup>th</sup>, 1999 To 30 Months

3 years Supervised Release

\$6000<sup>00</sup> Fine

5. Check whether a finding of guilty was made:

(a) after a plea of guilty \_\_\_\_\_

(b) after a plea of not guilty ✓

(c) after a plea of nolo contendere \_\_\_\_\_

6. If you were found guilty after a plea of not guilty, check whether that finding was made by:

(a) a jury ✓

(b) a judge \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence? Yes \_\_\_\_\_ No ✓

8. If you answered "Yes" to question (7), list:

(a) the name of each court to which you appealed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) the result in each court to which you appealed:

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(c) the date of each result:

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(d) if known, list the citations of any written opinion or order entered pursuant to such results:

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9. State concisely all the grounds on which you base each allegation that you are being held in custody unlawfully:

(a)

Prior time served credit is controlled by 18 U.S.C. 3585 (b) States,

"A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences that has not been credited against another sentence."

(b)

Our pre-sentence detention Time could not have been credited To our Canadian Sentences. Due To The fact That some Co-defendants did not serve The same amount of pre-detention, but were still sentenced To The same Time as others in accordance To Their part in The Crime.

(c)

Two other Co-defendants who Received Rather Shorter sentences were in fact granted The credit for Time Served, and have since been Released.

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) \* PRIOR Time Served Credit is Controlled by 18 USC. 358(b)  
 "Prior custody credit will be given for Time Spent in official detention as the Result of any federal, State, or Foreign arrest."

I was arrested July 31, 1991 and incarcerated until being sentenced in Canada on 10/13/92 to a 4yr. sentence. This sentence was a pre-arraignment Plea agreement Negotiated with The Crown prosecutors. They agreed to these terms instead of a long and costly trial which could have gone either way. The prosecution's Key witness was claiming to have been beaten by the Surete' Quebec police to obtain a confession. At this point they weren't sure of his creditability on the stand.

The B.O.P. previously granted the Time Served credit in question to myself as well as co-defendants in other regions. This decision was based on documentation requested from Canada. How can this credit be revoked by one's interpretation of a comment taken out of context. Nowhere is it stated that you should be this, but since you were previously detained you'll get this sentence instead.

The issue that the prior custody time was credited against our Canadian sentences is in direct conflict with the actual sentences we received according to our individual participation in the crime. The fact of the matter is why would one co-defendant receive the same sentence as another even one was released on bail for 9 weeks? Also why would another co-defendant receive a lesser sentence when in fact he was out on bail for over a year prior to sentencing?

No where was it quoted that our sentences differentiated due to the time we spent or did not spend in pre-sentence detention. The time sentenced was evaluated by your amount of participation in the crime only.

(c)

In the case of co-defendants who plead guilty and were sentenced in separate courts and by separate judges, both have since been released. The point is that the Time Served credit being given in the Canadian sentence was never an issue. This only goes to confirm that we were not credited previously as the allegation states.

11. Have you previously filed petitions for habeas corpus, motions under section 2255 of Title 28 USC or any other applications, petitions or motions with respect to this conviction. Yes ☒ No ☐

12. If you answered "Yes" to (11), list with respect to each motion or application:

(a) the specific nature thereof

Motion To Correct Sentence Under Statute 28 U.S.C. Section 2255  
The Movant has been denied Due Process Rights by The  
Improper actions of The United States Probation Office

(b) the name and location of the court in which each was filed

United States District Court for The District of Vermont  
Burlington, Vermont

(c) the disposition thereof

Is Pending

(d) the date of each disposition

(e) if known, the citations of any written opinions or orders entered pursuant to each such disposition:

13. If you did not file a motion under section 2255 of Title 28, USC, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:

(a)

(b)

(c)

14. Has any ground set forth in (9) been previously presented to this or any other federal court by way of petition for habeas corpus, motion under section 2255 of Title 28, USC, or any other petition, motion or application?

Yes \_\_\_\_\_

No ☒

15. If you answered "Yes" to (14), identify

(a) which grounds have been previously presented:

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(b) the proceedings in which each ground was raised:

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16. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes ☒ No \_\_\_\_\_

(b) your trial, if any? Yes ☒ No \_\_\_\_\_

(c) your sentencing? Yes ☒ No \_\_\_\_\_

(d) your appeal, if any, from the judgement of conviction or the imposition of sentence? Yes \_\_\_\_\_ No ☒

(e) preparation, presentation or consideration of any petition, motions or applications with respect to this conviction, which you filed? Yes ☒ No \_\_\_\_\_

17. If you answered "Yes" to one or more parts of (16), list

(a) the name and address of each attorney who represented you:



Martin A. Maley, Esq.  
Two North Main Street  
St. Albans, Vermont 05478

(b) the proceedings at which each attorney represented you:

Arraignment and Plea  
Trial and Sentencing  
Motion To Correct Sentence

18. If you are seeking leave to proceed "in forma pauperis", have you completed the sworn affidavit setting forth the required information in instructions, page 1 of this form?

Yes ✓ No       

I, Glen William Koski, state under penalty of perjury that the foregoing is true and correct.

Executed on: March 12<sup>th</sup> 2000

Glen William Koski  
Petitioner